



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 17, 1998

Ms. Mary Keller
Senior Associate Commissioner
Legal and Compliance Division
Texas Department of Insurance
333 Guadalupe Street
Austin, Texas 78714-9104

OR98-2741

Dear Ms. Keller:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119558.

The Texas Department of Insurance (the "department") received a request from an employee for all current information that the department's internal audit has concerning the employee. You indicate that some information has been released to the requestor, but you assert that other records are protected from disclosure under section 552.116 of the Government Code. Section 552.116 excepts from disclosure

an audit working paper or draft audit report of the state auditor or of another state agency or institution of higher education as defined by Section 61.003, Education Code.

The legislation that enacted section 552.116 also defines the term "audit working paper" as

all documentary and other information prepared or maintained in conducting an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and all draft reports or portions thereof.

Act of May 29, 1997, H.B. 2906, § 2, 75th Leg., R.S. (amending Gov't Code 321.001). An "audit" is defined as "1 a: a formal examination of an organization's or individual's accounts or financial situation b: the final report of an audit 2: a methodical examination and review," WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1989) and "to make an official

systematic examination of (accounts), so as to ascertain accuracy," THE OXFORD ENGLISH DICTIONARY (2nd ed. 1989). Section 321.0136 of the Government Code defines "investigation" for purposes of chapter 321 as

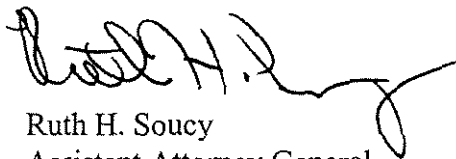
an inquiry into specified acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt, or use of state funds, or into specified financial transactions or practices that may involve such impropriety, malfeasance, or nonfeasance.

Gov't Code § 321.0136.

The records at issue concern an investigation into the employee's use of his work computer. This appears to be an investigation into an employee's work performance and actions at work that does not fit within the scope of section 552.116. Thus, the records may not be withheld from disclosure under section 552.116 and must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119558

Enclosures: Submitted documents

cc: Mr. Quinner F. Williams, Jr.